IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:12cv737

YOLANDA FRASIER, individually and on behalf of all others similarly situated,)
Plaintiff,)
Vs.	ORDER
WELLS FARGO BANK, N.A.; WELLS)
FARGO & COMPANY; and DOES 1)
THROUGH 10, INCLUSIVE,)
Defendants.)))

THIS MATTER is before the court on the "Stipulation and Proposed Order for Partial Dismissal" (#15). In that stipulation, the parties jointly request (by inclusion of a "So Ordered" provision) that the court enter the proposed stipulation, which would apparently resolve defendants' Motion to Dismiss (#7). Counsel are advised that filing a "Stipulation" or "Notice" that seeks court action is not an appropriate pleading under Rule 7.1, L.Cv.R. Instead, the Local Civil Rules require that requests for relief be filed in the form of a motion. This is not a mere formality, but a necessary step as ECF does not recognize stipulations or notices as pleadings that seek relief. As evidenced here, the "Stipulation for Partial Dismissal" was recognized by ECF as a stipulation of partial dismissal, but did not create a trackable event requiring court attention. The court notes that the proposed Stipulation omits formal resolution of the pending Motion to Dismiss (#7), which would remain a reportable motion under CJRA until resolved.

While the court will deem such to be a motion in the interest of moving the case along, the Local Civil Rules need to be observed in future filings, which require (1) filing a motion and

(2) submitting any proposed Order via Cyberclerk (if the parties wish that the proposed Order be used) or annexed to the motion as an exhibit

ORDER

IT IS, THEREFORE, ORDERED that the "Stipulation and Proposed Order for Partial Dismissal" (#15) is deemed to be a Motion for Approval of a Proposed Stipulation of Dismissal of Less than the Entire Case, made in accordance with Rule 41, Federal Rules of Civil Procedure, which is **GRANTED**, and Count Two of the Complaint as well as any class allegations under Rule 23 related to Count Two are **DISMISSED** without prejudice, each party bearing their own costs. Defendants' Motion to Dismiss (#7) is **DENIED** as moot.

Signed: January 3, 2013

Max O. Cogburn Jr. United States District Judge